

SECTION A
GENERAL PROVISIONS

INDEX

	Article	Page No.		Article	Page No.
Alterations in Contract	42	13	Inspection	26	9
Assignments of Claims	12	4	Interest	22	9
Buy American Act	5	3	Listing of Employment Openings for Veterans	40	12
Contract Work Hours and Safety Standards Act—			Manuals for Production-Type Items	32	10
Overtime Compensation	18	6	Minority Business Enterprises	38	11
Convict Labor	17	6	New Material	3	2
Cost Accounting Standards	41	13	Non-Publicity	24	9
Covenant Against Contingent Fees	9	3	Notice and Assistance Regarding Patent and Copy-		
Definitions	6	3	right Infringement	13	4
Delivery—Late	27	10	Officials Not To Benefit	8	3
Delivery—Personal	30	10	Packing and Packaging	31	10
Disclosure of Foreign Interest in United States			Payment of Interest on Contractors' Claims	39	12
Domestic Concern	36	11	Priorities, Allocations, and Allotments	11	4
Disputes	7	3	Protective Signature	34	10
Equal Opportunity	20	7	Rights in Technical Data	16	5
Equal Opportunity Preaward Clearance of Sub-			Royalty Information	15	4
contracts	37	11	Security Requirements	23	9
Filing of Patent Applications	14	4	Service Contract Act of 1965	21	7
F.O.B. Destination	28	10	Shipping Instructions	33	10
F.O.B. Destination—Evidence of Shipment	29	10	Standard Price	25	9
Government Surplus	4	2	Utilization of Labor Surplus Area Concerns	2	2
Gratuities	10	3	Utilization of Small Business Concerns	1	1
Identification and Marking of Shipments	35	10	Walsh-Healey Public Contracts Act	19	6

ARTICLE 1

7-104.14(a) UTILIZATION OF SMALL BUSINESS CONCERNS (1958 JAN.)

(a) It is the policy of the Government as declared by the Congress that a fair proportion of the purchases and contracts for supplies and services for the Government be placed with small business concerns.

(b) The Contractor agrees to accomplish the maximum amount of subcontracting to small business concerns that the Contractor finds to be consistent with the efficient performance of the contract.

7-104.14(b) SMALL BUSINESS SUBCONTRACTING PROGRAM (1965 JUN.)

(a) The Contractor agrees to establish and conduct a small business subcontracting program which will enable small business concerns to be considered fairly as subcontractors and suppliers under this contract. In this connection, the Contractor shall—

(1) Designate a liaison officer who will (i) maintain liaison with the Government on small business matters, (ii) supervise compliance with the "Utilization of Small Business Concerns" clause, and (iii) administer the "Contractor's Small Business Subcontracting Program."

(2) Provide adequate and timely consideration of the potentialities of small business concerns in all "make-or-buy" decisions.

(3) Assure that small business concerns will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitation, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of small business concerns. Where the Contractor's list of potential small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(4) Maintain records showing (i) whether each prospective subcontractor is a small business concern, (ii) procedures which have been adopted to comply with the policies set forth in this clause, and (iii) with respect to the letting of any subcontract (in-

cluding purchase orders) exceeding \$10,000, information substantially as follows:

- (A) Whether the award went to large or small business.
- (B) Whether less than three or more than two small business concerns were solicited.
- (C) The reason for non-solicitation of small business if such was the case.
- (D) The reason for small business failure to receive the award if such was the case when small business was solicited.

The records maintained in accordance with (iii) above may be in such form as the individual Contractor may determine, and the information shall be summarized quarterly and submitted by the purchasing department of each individual plant or division to the Contractor's cognizant small business liaison officer. Such quarterly summaries will be considered to be management records only and need not be submitted routinely to the Government; however, records maintained pursuant to this clause will be kept available for review.

(5) Notify the Contracting Officer before soliciting bids or quotations on any subcontract (including purchase orders) in excess of \$10,000 if (i) no small business concern is to be solicited, and (ii) the Contracting Officer's consent to the subcontract (or ratification) is required by a "Subcontracts" clause in this contract. Such notice will state the Contractor's reasons for non-solicitation of small business concerns, and will be given as early in the procurement cycle as possible so that the Contracting Officer may give the Small Business Administration timely notice to permit SBA a reasonable period to suggest potentially qualified small business concerns through the Contracting Officer. In no case will the procurement action be held up when to do so would, in the Contractor's judgment, delay performance under the contract.

(6) Include the "Utilization of Small Business Concerns" clause in subcontracts which offer substantial small business subcontracting opportunities.

(7) Cooperate with the Contracting Officer in any studies and surveys of the Contractor's subcontracting procedures and practices that the Contracting Officer may from time to time conduct.

(8) Submit DD Form 1140-1 each quarter in accordance with instructions provided on the form, except that where the Contractor elects to report on a corporate rather than a plant basis, he may submit his reports to the Military Department having the responsibility for the Small Business Subcontracting Program at the corporate headquarters. The reporting requirements of this subparagraph (8) do not apply to Small Business Contractors, Small Business Subcontractors, or educational and nonprofit institutions.

(b) A "small business concern" is a concern that meets the pertinent criteria established by the SBA and set forth in paragraph 1-701 of the Armed Services Procurement Regulation.

(c) The Contractor agrees that, in the event he fails to comply with his contractual obligations concerning the small business subcontracting program, this contract may be terminated, in whole or in part, for default.

(d) The Contractor further agrees to insert, in any subcontract hereunder which is in excess of \$500,000 and which contains the "Utilization of Small Business Concerns" clause, provisions which shall conform substantially to the language of this clause, including this paragraph (d), and to notify the Contracting Officer of the names of such subcontractors; except that the subcontractor will submit the DD Form 1140-1 reports to the Military Department having the responsibility for reviewing its Small Business Subcontracting Program. (A subcontractor may request advice from the nearest military purchasing or contract administration activity as to the Military Department to which he should submit his reports.)

ARTICLE 2

7-104.20(a) UTILIZATION OF LABOR SURPLUS AREA CONCERNS (1970 JUN.)

(a) It is the policy of the Government to award contracts to labor surplus area concerns, that (1) have been certified by the Secretary of Labor (hereafter referred to respectively as certified concerns with a first or second preference) regarding the employment of a proportionate number of disadvantaged individuals and have agreed to perform substantially (i) in or near sections of concentrated unemployment or underemployment or in persistent or substantial labor surplus areas or (ii) in other areas of the United States; or (2) are noncertified concerns which have agreed to perform substantially in persistent or substantial labor surplus areas, where this can be done consistent with the efficient performance of the contract and at prices no higher than are obtainable elsewhere. The Contractor agrees to use his best efforts to place his subcontracts in accordance with this policy.

(b) In complying with paragraph (a) of this clause and with paragraph (b) of the clause of this contract entitled "Utilization of Small Business Concerns," the Contractor in placing his subcontracts shall observe the following order of preference: (1) certified concerns with a first preference which are also small business concerns, (2) other certified concerns with a first preference, (3) certified concerns with a second preference which are also small business concerns, (4) other certified concerns with a second preference, (5) persistent or substantial labor surplus area concerns which are also small business concerns, (6) other persistent or substantial labor surplus area concerns, and (7) small business concerns which are not labor surplus area concerns.

7-104.20(b) LABOR SURPLUS AREA SUBCONTRACTING PROGRAM (1970 JUN.)

(a) The Contractor agrees to establish and conduct a program which will encourage labor surplus area concerns to compete for subcontracts within their capabilities. In this connection, the Contractor shall—

(1) Designate a liaison officer who will (i) maintain liaison with duly authorized representatives of the Government on labor surplus area matters, (ii) supervise compliance with the "Utilization of Labor Surplus Area Concerns" clause, and (iii) administer the Contractor's Labor Surplus Area Subcontracting Program;

(2) Provide adequate and timely consideration of the potentialities of labor surplus area concerns in all "make-or-buy" decisions;

(3) Assure that labor surplus area concerns will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of labor surplus area concerns;

(4) Maintain records showing procedures which have been adopted to comply with the policies set forth in this clause; and

(5) Include the "Utilization of Labor Surplus Area Concerns" clause in subcontracts which offer substantial labor surplus area subcontracting opportunities.

(b) For subcontracting purposes, a "labor surplus area concern" is a concern that (1) has been certified by the Secretary of Labor (hereafter referred to as a certified concern) regarding the employment of a proportionate number of disadvantaged individuals and has agreed to perform substantially in or near sections of concentrated unemployment or underemployment, in persistent or substantial labor surplus areas, or in other areas of the United States; or (2) is not a certified concern but has agreed to perform substantially in persistent or substantial labor surplus areas. A certified concern shall be deemed to perform a substantial proportion of a contract in or near sections of concentrated unemployment or underemployment, in persistent or substantial labor surplus areas, or in other areas of the United States if the costs that the concern will incur on account of manufacturing or production in or near such sections or in such areas amount to more than 25% of the price of such contracts; a concern shall be deemed to perform a substantial proportion of a contract in a persistent or substantial labor surplus area if the costs that the concern will incur on account of manufacturing or production in such areas amount to more than 50% of the price of such contract.

(c) The Contractor further agrees, with respect to any subcontract hereunder which is in excess of \$500,000 and which contains the clause entitled "Utilization of Labor Surplus Area Concerns" that he will insert provisions in the subcontract which will conform substantially to the language of this clause, including this paragraph (c), and that he will furnish the names of such subcontractors to the Contracting Officer.

ARTICLE 3

7-104.48 NEW MATERIAL (1965 JAN.)

Except as to any supplies and components which the Specification or Schedule specifically provides need not be new, the Contractor represents that the supplies and components including any former Government property identified pursuant to the "Government Surplus" clause of this contract to be provided under this contract are new (not used or reconditioned, and not of such age or so deteriorated as to impair their usefulness or safety). If at any time during the performance of this contract, the Contractor believes that the furnishing of supplies or components which are not new is necessary or desirable, he shall notify the Contracting Officer immediately, in writing, including the reasons therefor and proposing any consideration which will flow to the Government if authorization to use such supplies is granted.

ARTICLE 4

1-1208 GOVERNMENT SURPLUS (1965 JAN.)

(a) In the event the bid or proposal is based on furnishing items or components which are former Government surplus property or residual inventory resulting from terminated Government contracts, a complete description of the items or components, quantity to be used, name of Government agency from which acquired, and date of acquisition shall be set forth on a separate sheet to be attached to bid or proposal. Notwithstanding any information provided in accordance with this provision, items furnished by the Contractor must comply in all respects with the specifications contained herein.

(b) Except as disclosed by the Contractor in (a) above, no property of the type described herein shall be furnished under this contract unless approved in writing by the Contracting Officer.

ARTICLE 5

7-104.3 BUY AMERICAN ACT (1964 MAY)

(a) In acquiring end products, the Buy American Act (41 U.S.C. 10a-d) provides that the Government give preference to domestic source end products. For the purpose of this clause:

(i) "components" means those articles, materials, and supplies, which are directly incorporated in the end products;

(ii) "end products" means those articles, materials, and supplies, which are to be acquired under this contract for public use; and

(iii) a "domestic source end product" means (A) an unmanufactured end product which has been mined or produced in the United States and (B) an end product manufactured in the United States if the cost of the components thereof which are mined, produced, or manufactured in the United States or Canada exceeds 50 percent of the cost of all its components. For the purposes of this (a)(iii) (B), components of foreign origin of the same type or kind as the products referred to in (b)(ii) or (iii) of this clause shall be treated as components mined, produced, or manufactured in the United States.

(b) The Contractor agrees that there will be delivered under this contract only domestic source end products, except end products:

(i) which are for use outside the United States;

(ii) which the government determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality;

(iii) as to which the Secretary determines the domestic preference to be inconsistent with the public interest; or

(iv) as to which the Secretary determines the cost to the Government to be unreasonable.

ARTICLE 6

7-103.1 DEFINITIONS (1962 FEB.)

As used throughout this contract, the following terms shall have the meanings set forth below:

(a) The term "head of the agency" or "Secretary" means the Secretary, the Under Secretary, any Assistant Secretary, or any other head or assistant head of the executive or military department or other Federal agency; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the head of the agency or the Secretary.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of a Contracting Officer acting within the limits of his authority.

(c) Except as otherwise provided in this contract, the term "subcontracts" includes purchase orders under this contract.

(d) "Contract" as used herein means this contract and/or any Task Orders issued under and subject to the provisions of this contract.

(e) "Schedule" means a Schedule attached to this contract or to a Task Order under this contract.

ARTICLE 7

7-103.12 DISPUTES (1958 JAN.)

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Con-

tracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Secretary. The decision of the Secretary or his duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This "Disputes" clause does not preclude consideration of law questions in connection with decisions provided for in paragraph (a) above; *provided*, that nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

ARTICLE 8

7-103.19 OFFICIALS NOT TO BENEFIT (1949 JUL.)

No member of or delegate to Congress, or resident commissioner shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

ARTICLE 9

7-103.20 COVENANT AGAINST CONTINGENT FEES (1958 JAN.)

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE 10

7-104.16 GRATUITIES (1952 MAR.)

(a) The Government may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract if it is found after notice and hearing, by the Secretary or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the Government with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such contract; *provided*, that the existence of the facts upon which the Secretary or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event this contract is terminated as provided in paragraph (a) hereof, the Government shall be entitled (i) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor, and (ii) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Secretary or his duly authorized representative) which shall be not less than three nor more than ten times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

ARTICLE 11

7-104.18 PRIORITIES, ALLOCATIONS, AND ALLOTMENTS (1971 APR.)

The Contractor shall follow the provisions of DMS Reg. 1 and all other applicable regulations and orders of the Bureau of Domestic Commerce in obtaining controlled materials and other products and materials needed to fill this order.

ARTICLE 12

7-103.8 ASSIGNMENT OF CLAIMS (1962 FEB.)

(a) Pursuant to the provisions of the Assignment of Claims Act of 1940, as amended (31 U.S. Code 203, 41 U.S. Code 15), if this contract provides for payments aggregating \$1,000 or more, claims for monies due or to become due the Contractor from the Government under this contract may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing. Notwithstanding any provisions of this contract, payments to an assignee of any monies due or to become due under this contract shall not, to the extent provided in said Act, as amended, be subject to reduction or set-off.

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked "Top Secret," "Secret," or "Confidential," be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive the same: *Provided*, that a copy of any part or all of this contract so marked may be furnished, or any information contained therein may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

ARTICLE 13

7-103.23 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (1965 JAN.)

The provisions of this clause shall be applicable only if the amount of this contract exceeds \$10,000.

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

(c) This clause shall be included in all subcontracts.

ARTICLE 14

7-104.6 FILING OF PATENT APPLICATIONS (1969 DEC.)

(a) Before filing or causing to be filed a patent application in the United States disclosing any subject matter of this contract, which subject matter is classified "Secret," or higher, the Con-

tractor shall, citing the thirty (30) day provision below, transmit the proposed application to the Contracting Officer for determination whether, for reasons of national security, such application shall be placed under an order of secrecy or sealed in accordance with the provisions of 35 U.S.C. 181-188 or the issuance of a patent should be otherwise delayed under pertinent United States statutes or regulations; and the Contractor shall observe any instructions of the Contracting Officer with respect to the manner of delivery of the patent application to the United States Patent Office for filing, but the Contractor shall not be denied the right to file such patent application. If the Contracting Officer shall not have given any such instructions within thirty (30) days from the date of mailing or other transmittal of the proposed application, the Contractor may file the application.

(b) The Contractor shall furnish to the Contracting Officer, at the time of or prior to the time when the Contractor files or causes to be filed a patent application in the United States disclosing any subject matter of this contract, which subject matter is classified "Confidential," a copy of such application for determination whether, for reasons of national security, such application should be placed under an order of secrecy or the issuance of a patent should be otherwise delayed under pertinent United States statutes or regulations.

(c) Where the subject matter of this contract is classified for reasons of security, the Contractor shall not file, or cause to be filed in any country, other than in the United States as provided in (a) and (b) of this clause, any application or registration for a patent containing any of said subject matter without first obtaining written approval of the Contracting Officer.

(d) When filing any patent application coming within the scope of this clause, the Contractor shall observe all applicable security regulations covering the transmission of classified subject matter, and shall also promptly furnish to the Contracting Officer the serial number, filing date, and name of country of any such patent application. When transmitting for the application to the United States Patent Office, the Contractor shall by separate letter identify by agency and number the contract or contracts which require security classification markings to be placed on the application.

(e) "The substance of this clause shall be included in all subcontracts which cover or are likely to cover classified subject matter."

ARTICLE 15

9-110 ROYALTY INFORMATION (1961 AUG.)

When the response to this solicitation contains cost or charges for royalties totaling more than \$250, the following information shall be furnished with the offer, proposal, or quotation on each separate item of royalty or license fee:

- (i) name and address of licensor;
- (ii) date of license agreement;
- (iii) patent numbers, patent application serial numbers or other basis on which the royalty is payable;
- (iv) brief description, including any part or model numbers of each contract item or component on which the royalty is payable;
- (v) percentage or dollar rate of royalty per unit;
- (vi) unit price of contract item;
- (vii) number of units; and
- (viii) total dollar amount of royalties.

DD Form 783, Royalty Report, is approved for use in furnishing the above information. In addition, if specifically requested by the Contracting Officer prior to execution of the contract, a copy of the current license agreement and identification of applicable claims of specific patents shall be furnished.

ARTICLE 16

7-104.9 RIGHTS IN TECHNICAL DATA (1972 APR.)

(a) Definitions.

(1) *Technical Data*, as used in this clause, means recorded information regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work; or be usable or used to define a design or process or to procure, produce, support, maintain, or operate materiel. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design type documents; in machine forms such as punched cards, magnetic tape, computer memory printouts; or may be retained in computer memory. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. Technical data does not include financial, administrative, cost and pricing, and management data, or other information incidental to contract administration.

(2) *Limited Rights* means rights to use, duplicate, or disclose technical data, in whole or in part, by or for the Government, with the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data, be (a) released or disclosed in whole or in part outside the Government, (b) used in whole or in part by the Government for manufacture, or (c) used by a party other than the Government, except for:

(i) emergency repair or overhaul work only, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work, *provided* that the release or disclosure thereof outside the Government shall be made subject to a prohibition against further use, release or disclosure; or

(ii) release to a foreign government, as the interest of the United States may require, only for information or evaluation within such government or for emergency repair or overhaul work by or for such government under the conditions of (i) above.

(3) *Unlimited Rights* means rights to use, duplicate or disclose technical data, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(b) Government Rights.

(1) The Government shall have unlimited rights in:

(i) technical data resulting directly from performance of experimental, developmental or research work which was specified as an element of performance in this or any other Government contract or subcontract;

(ii) technical data necessary to enable manufacture of end-items, components and modifications, or to enable the performance of processes, when the end-items, components, modifications, or processes have been, or are being, developed under this or any other Government contract or subcontract in which experimental, developmental or research work is, or was specified as an element of contract performance, except technical data pertaining to items, components or processes developed at private expense (but see (2)(ii) below);

(iii) technical data prepared or required to be delivered under this or any other Government contract or subcontract and constituting corrections or changes to Government-furnished data;

(iv) technical data pertaining to end-items, components or processes, prepared or required to be delivered under this or any other Government contract or subcontract, for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics and performance requirements ("form, fit and function" data,

e.g., specification control drawings, catalog sheets, envelope drawings, etc.);

(v) manuals or instructional materials prepared or required to be delivered under this contract or any subcontract hereunder for installation, operation, maintenance or training purposes;

(vi) technical data which is in the public domain, or has been or is normally furnished without restriction by the contractor, or subcontractor; and

(vii) technical data listed or described in an agreement incorporated into the Schedule of this contract, which the parties have predetermined, on the basis of subparagraphs (i) through (vi) above, and agreed will be furnished with unlimited rights.

(2) The Government shall have limited rights in:

(i) technical data, listed or described in an agreement incorporated into the Schedule of this contract, which the parties have agreed will be furnished with limited rights; and

(ii) technical data pertaining to items, components or processes developed at private expense, other than such data as may be included in the data referred to in (b)(1)(i), (iii), (iv), (v), and (vi);

provided that only the portion or portions of each piece of data to which limited rights are to be asserted pursuant to (2)(i) and (ii) above are identified (for example, by circling, underscoring, or a note), and that the piece of data is marked with the legend below in which is inserted:

A. the number of the prime contract under which the technical data is to be delivered,

B. the name of the contractor and any subcontractor by whom the technical data was generated, and

C. an explanation of the indication used to identify limited rights data.

LIMITED RIGHTS LEGEND

Contract No.
Contractor:
Explanation of Limited Rights Data Indication Used

Those portions of this technical data indicated as limited rights data shall not, without the written permission of the above Contractor, be either (a) used, released or disclosed in whole or in part outside the Government, (b) used in whole or in part by the Government for manufacture, or (c) used by a party other than the Government, except for: (i) emergency repair or overhaul work only, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work, *provided* that the release or disclosure hereof outside the Government shall be made subject to a prohibition against further use, release, or disclosure; or (ii) release to a foreign government, as the interest of the United States may require, only for information or evaluation within such government or for emergency repair or overhaul work by or for such government under the conditions of (i) above. This legend, together with the indications of the portions of this data which are subject to such limitations shall be included on any reproduction hereof which includes any part of the portions subject to such limitations.

(3) No legend shall be marked on, nor shall any limitation on rights of use be asserted as to, any data which the Contractor has previously delivered to the Government without restriction. The limited rights provided for by this paragraph (b)(2) shall not impair the right of the Government to use similar or identical data acquired from other sources.

(c) Material Covered by Copyright.

(1) In addition to the rights granted under the provisions of (b) above, the Contractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive and irrevocable license throughout the world for Government purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize

others so to do, all technical data, prepared or required to be delivered under the contract, now or hereafter covered by copyright.

(2) Copyrighted matter shall not be included in technical data furnished hereunder without the written permission of the copyright owner for the Government to use such copyrighted matter in the manner described in (c)(1) above, unless the written approval of the Contracting Officer is obtained.

(3) The Contractor shall report to the Government (or higher-tier Contractor) promptly and in reasonable written detail each notice or claim of copyright infringement received by the Contractor with respect to any technical data delivered hereunder.

(d) *Removal of Unauthorized Markings.* Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may correct or cancel any marking not authorized by the terms of this contract on any technical data furnished hereunder, if —

(i) the Contractor fails to respond within sixty (60) days to a written inquiry by the Government concerning the propriety of the markings, or

(ii) the Contractor's response fails to substantiate within 60 days after written notice the propriety of the markings by clear and convincing evidence.

In either case the Government shall give written notice to the Contractor of the action taken.

(e) *Relation to Patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(f) *Limitation on Charges for Data.* The Contractor recognizes that the Government, or a foreign government with funds derived through the Military Assistance Program or otherwise through the United States Government, may contract for property or services with respect to which the vendor may be liable to the Contractor for charges for the use of technical data on account of such a contract. The Contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived through the Military Assistance Program or otherwise through the United States Government, charges for data which the Government has a right to use and disclose to others, which is in the public domain, or which the Government has been given without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproduction, handling, mailing, and similar administrative costs incident to the furnishing of such data. In recognition of this policy, the Contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts, or for the refund of amounts received by the Contractor with respect to any such charges not so excluded.

(g) *Acquisition of Data from Subcontractors.*

(1) Whenever any technical data is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the Government or the Contractor's rights in that subcontractor data which is required for the Government.

(2) Technical data required to be delivered by a subcontractor shall normally be delivered to the next higher-tier Contractor. However, when there is a requirement in the prime contract, for data which may be supplied with limited rights pursuant to (b)(2) above, a subcontractor may fulfill such requirement by submitting such data directly to the Government rather than through the prime Contractor.

(3) The Contractor and higher-tier subcontractors will not use their power to award subcontracts as economic leverage to acquire rights in technical data from their subcontractors for themselves.

ARTICLE 17

7-104.17 CONVICT LABOR (1949 MAR.)

In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor.

ARTICLE 18

7-103.16 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT—OVERTIME COMPENSATION (1969 NOV.)

This contract, to the extent that it is of a character specified in the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), is subject to the following provisions and to all other applicable provisions and exceptions of such Act and the regulations of the Secretary of Labor thereunder.

(a) *Overtime requirements.* No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek on work subject to the provisions of the Contract Work Hours and Safety Standards Act unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, whichever is the greater number of overtime hours.

(b) *Violations; liability for unpaid wages; liquidated damages.* In the event of any violation of the provisions of paragraph (a), the Contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph (a) in the sum of \$10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of eight hours or in excess of his standard workweek of forty hours without payment of the overtime wages required by paragraph (a).

(c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer may withhold from the Government Prime Contractor, from any moneys payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions of paragraph (b).

(d) *Subcontracts.* The Contractor shall insert paragraphs (a) through (d) of this clause in all subcontracts, and shall require their inclusion in all subcontracts of any tier.

(e) *Records.* The Contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for three years from the completion of the contract.

ARTICLE 19

7-103.17 WALSH-HEALEY PUBLIC CONTRACTS ACT (1958 JAN.)

If this contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds or may exceed \$10,000 and is otherwise subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35-45), there are hereby incorporated by reference all representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representation and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect.

ARTICLE 20**7-103.18 EQUAL OPPORTUNITY (1972 AUG.)**

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; lay-off or termination, rates of pay or other forms of compensation; selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under this Equal Opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and by the rules, regulations, and orders of the Secretary of Labor or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the Equal Opportunity clause of this contract or with any of said rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for non-compliance: *Provided*, however, that in the event the Contractor becomes involved in, or is threatened

with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE 21**12-1004 SERVICE CONTRACT ACT OF 1965 (1968 SEP.)**

This contract, to the extent that it is of the character to which the Service Contract Act of 1965 (P.L. 89-286) applies, is subject to the following provisions and to all other applicable provisions of the Act and the regulations of the Secretary of Labor thereunder (29 CFR Parts 4 and 1516).

(a) *Compensation.* Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wage and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or his authorized representative, as specified in any attachment to this contract. If there is such an attachment, any class of service employees which is not listed therein, but which is to be employed under this contract, shall be classified by the Contractor so as to provide a reasonable relationship between such classifications and those listed in the attachment, and shall be paid such monetary wages and furnished such fringe benefits as are determined by agreement of the interested parties, who shall be deemed to be the contracting agency, the Contractor, and the employees who will perform on the contract or their representatives. If the interested parties do not agree on a classification or reclassification which is, in fact, conformable, the Contracting Officer shall submit the question, together with his recommendation, to the Administrator of the Wage and Hour and Public Contracts Divisions, Department of Labor, or his authorized representative for final determination. Failure to pay such employees the compensation agreed upon by the interested parties or finally determined by the Administrator or his authorized representative shall be a violation of this contract. No employee engaged in performing work on this contract shall in any event be paid less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (\$1.60 per hour).

(b) *Obligation to furnish fringe benefits.* The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined conformably thereto by furnishing any equivalent combinations of fringe benefits, or by making equivalent or differential payments in cash, pursuant to applicable rules of the Administrator of the Wage and Hour and Public Contracts Divisions, Department of Labor (Subpart B of Part 4 (29 CFR)).

(c) *Minimum wage.* In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any of his employees performing work under the contract (regardless of whether they are service employees) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938 (\$1.60 per hour). However, in cases where section 6(c)(2) of the Fair Labor Standards Act of 1938 is applicable, the rates specified therein will apply. Nothing in this provision shall relieve the Contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.

(d) *Notification to employees.* The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post a notice of such wages and benefits in a prominent and accessible place at the worksite, using such poster as may be provided by the Department of Labor.

(e) *Safe and sanitary working conditions.* The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surrounding or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsani-

tary or hazardous or dangerous to the health or safety of service employees engaged to furnish these services. Except insofar as a noncompliance can be justified as provided in section 1516.1(c) of Title 29 CFR, this will require compliance with the applicable standards, specifications, and codes developed and published by the U.S. Department of Labor, any other agency of the United States, and any nationally recognized professional organization such as, without limitation, the following:

National Bureau of Standards, U.S. Department of Commerce.
Public Health Service, U.S. Department of Health, Education, and Welfare.
Bureau of Mines, U.S. Department of the Interior
United States of America Standards Institute (American Standards Association).
National Fire Protection Association.
American Society of Mechanical Engineers.
American Society for Testing and Materials.
American Conference of Government Industrial Hygienists.

Information as to the latest standards, specifications, and codes applicable to the contract is available at the office of the Director of the Bureau of Labor Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street, N.W., Washington, D.C. 20212, or at any of the regional offices of the Bureau of Labor Standards as follows:

(1) North Atlantic Region, 341 Ninth Avenue, Room 920, New York, N.Y. 10001 (Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont, New Jersey, and Puerto Rico).

(2) Middle Atlantic Region, 1110-B Federal Building, Charles Center, 31 Hopkins Plaza, Baltimore, Md. 21201 (Delaware, District of Columbia, Maryland, North Carolina, Pennsylvania, Virginia, and West Virginia).

(3) South Atlantic Region, 1371 Peachtree Street N.E., Suite 723, Atlanta, Ga. 30309 (Alabama, Florida, Georgia, Mississippi, South Carolina, and Tennessee).

(4) Great Lakes Region, 848 Federal Office Building, 219 South Dearborne Street, Chicago, Ill. 60604 (Illinois, Indiana, Kentucky, Michigan, Minnesota, Ohio, and Wisconsin).

(5) Mid-Western Region, 2100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106 (Colorado, Idaho, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming).

(6) Western Gulf Region, 411 North Akard Street, Room 601, Dallas, Tex. 75201 (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas).

(7) Pacific Region, 10353 Federal Building, 450 Golden Gate Avenue, Box 36017, San Francisco, Calif. 94102 (Alaska, Arizona, California, Hawaii, Nevada, Oregon, Washington, and Guam).

(f) *Records.* The Contractor and each subcontractor performing work subject to the Act shall make and maintain for three years from the completion of the work records containing the information specified below for each employee subject to the Act and shall make them available for inspection and transcription by authorized representatives of the Administrator of the Wage and Hour and Public Contracts Division, U.S. Department of Labor.

(1) His name and address.

(2) His work classification or classifications, rate or rates of monetary wages and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation.

(3) His daily and weekly hours so worked.

(4) Any deductions, rebates, or refunds from his total daily or weekly compensation.

(5) A list of monetary wages and fringe benefits for those classes of service employees not included in the minimum wage attachment to this contract, but for which such wage rates or fringe benefits have been determined by the interested parties or by the Administrator of the Wage and Hour and Public Contracts Division, Department of Labor, or his authorized repre-

sentative pursuant to the labor standards in paragraph (a) of this clause. A copy of the report required by paragraph (j) of this clause shall be deemed to be such a list.

(g) *Withholding of payments and termination of contract.* The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as he, or an appropriate officer of the Labor Department, decides may be necessary to pay underpaid employees. Additionally, any failure to comply with the requirements of this clause relating to the Service Contract Act of 1965 may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(h) *Subcontractors.* The Contractor agrees to insert the paragraphs of this clause relating to the Service Contract Act of 1965 in all subcontracts. The term "Contractor" as used in these paragraphs in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

(i) *Service employee.* As used in this clause relating to the Service Contract Act of 1965, the term "service employee" means guards, watchmen, and any person engaged in a recognized trade or craft, or other skilled mechanical craft, or in unskilled, semi-skilled, or skilled manual labor occupations; and any other employee including a foreman or supervisor in a position having trade, craft, or laboring experience as the paramount requirement; and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(j) *Contractor's report.* If there is a wage determination attachment to this contract and one or more classes of service employees which are not listed thereon are to be employed under the contract, the Contractor shall report to the Contracting Officer the monetary wages to be paid and the fringe benefits to be provided each such class of service employee. Such report shall be made promptly as soon as such compensation has been determined as provided in paragraph (a) of this clause.

(k) *Regulations incorporated by reference.* All interpretations of the Service Contract Act of 1965 expressed in Subpart C of Part 4 (29 CFR) are hereby incorporated by reference in this contract.

(1) These clauses relating to the Service Contract Act of 1965 shall not apply to the following:

(1) Any contract of the United States or District of Columbia for construction, alteration and/or repair, including painting and decorating of public buildings or public works;

(2) Any work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act (49 Stat. 2036);

(3) Any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line, or oil or gas pipeline where published tariff rates are in effect, or where such carriage is subject to rates covered by section 22 of the Interstate Commerce Act;

(4) Any contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934;

(5) Any contract for public utility services, including electric light and power, water, steam, and gas;

(6) Any employment contract providing for direct services to a Federal agency by an individual or individuals;

(7) Any contract with the Post Office Department, the principal purpose of which is the operation of postal contract stations;

(8) Any services to be furnished outside the United States. For geographic purposes, the "United States" is defined in section 8(d) of the Service Contract Act to include any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf Lands, as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Island, Eniwetok Atoll, Kawajalein Atoll, Johnston Island. It does

not include any other territory under the jurisdiction of the United States or any United States base or possession within a foreign country.

(9) Any of the following contracts exempted from all provisions of the Service Contract Act of 1965, pursuant to section 4(b) of the Act, which exemptions the Secretary of Labor hereby finds necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business: Contracts entered into by the United States with common carriers for the carriage of mail by rail, air (except air star routes), bus, and ocean vessel, where such carriage is performed on regularly scheduled runs of the trains, airplanes, buses, and vessels over regularly established routes and accounts for an insubstantial portion of the revenue therefrom.

(m) Notwithstanding any of the provisions in paragraphs (a) through (k) of this clause, relating to the Service Contract Act of 1965, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor hereby finds pursuant to section 4(b) of the Act to be necessary and proper in the public interest, or to avoid serious impairment of the conduct of Government business:

- (1)(i) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical, or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Service Contract Act of 1965, without diminishing any fringe benefits or case payments in lieu thereof required under section 2(a)(2) of that Act, in accordance with the procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator of the Wage and Hour and Public Contracts Divisions of the Department of Labor (Parts 520, 521, 524, and 525 of 29 CFR).
- (ii) The Administrator will issue certificates under the Service Contract Act of 1965 for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary case payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (Parts 520, 521, 524, and 525 of 29 CFR).
- (iii) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in Parts 525 and 528 of Title 29 of the Code of Federal Regulations.

(2) An employee engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips may have the amount of his tips credited by his employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with the regulations in Part 531 of 29 CFR: *Provided, however*, That the amount of such credit may not exceed 80 cents per hour.

ARTICLE 22

7-104.39 INTEREST (1972 MAY)

Notwithstanding any other provision of this contract, unless paid within 30 days all amounts that become payable by the Contractor to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code) shall bear interest from the date due until paid and shall be subject

to adjustments as provided by Part 6 of Appendix E of the Armed Services Procurement Regulation, as in effect on the date of this contract. The interest rate per annum shall be the interest rate in effect which has been established by the Secretary of the Treasury pursuant to Public Law 92-41; 85 STAT 97 for the Renegotiation Board, as of the date the amount becomes due as herein provided. Amounts shall be due upon the earliest one of (i) the date fixed pursuant to this contract; (ii) the date of the first written demand for payment, consistent with this contract, including demand consequent upon default termination; (iii) the date of transmittal by the Government to the Contractor of a proposed supplemental agreement to confirm completed negotiations fixing the amount; or (iv) if this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or in connection with a negotiated pricing agreement not confirmed by contract supplement.

ARTICLE 23

SECURITY REQUIREMENTS (Applicable only if the Schedule of the Contract specifies a Security Classification)

(a) The Contractor shall not initiate or perform any classified work specified in the contract until compliance with such security measures as may be required by the Security Representative of the Contracting Officer and he has received written notice of approval thereof from the Contracting Officer.

(b) Disclosure of Information. It is understood that disclosure of information relating to the work contracted for hereunder, to any person not entitled to receive it, or failure to safeguard all SECRET and CONFIDENTIAL matter that may come to the Contractor or any person under his control in connection with the work under this contract, may subject the Contractor, his agents, employees and subcontractors to criminal liability under the laws of the United States (18 U.S. Code 793, 794, 798). See "Contractor's Security Agreement" and "Security Requirements for Contractors" which are incorporated herein by reference only.

(c) Subcontractors. When it is deemed necessary to disclose classified information to a subcontractor to accomplish the purposes of this contract the Contractor will request permission of the Contracting Officer prior to such disclosure. Upon the granting of permission, the Contractor shall cause to be inserted in all subcontracts under this contract a provision similar to (a) above.

(d) Employment of Aliens. No aliens employed by the Contractor shall be permitted to have access to the plans or specifications, or the work under construction, or to participate in the contract trials, without the written consent beforehand of the Contracting Officer.

ARTICLE 24

Non-Publicity: It is a specific condition of the agreement that the Contractor shall not use or allow to be used any aspect of this agreement for publicity or advertisement purposes. The Contractor may request a waiver of the foregoing but shall not deviate therefrom unless so authorized in writing by the Contracting Officer.

ARTICLE 25

Standard Price: The price for any standard commercial equipment hereunder is not in excess of that charged by the Contractor to the public or other Government activities for like equipment, quantities and conditions.

ARTICLE 26

Inspection: Unless specified otherwise in this contractual document, inspection during the course of the performance of the work hereunder may be made by technical representative(s) of the Contracting Officer. In any event, final inspection and acceptance shall be at consignee destination.

ARTICLE 27

Late Delivery: In the event the Contractor encounters difficulty in meeting performance requirements, or when he anticipates difficulty in complying with the contract delivery schedule or date, he shall immediately notify the Contracting Officer in writing giving pertinent details; provided, however, that this data shall be informational only in character and that this provision shall not be construed as a waiver by the Government of any delivery schedule or date for any rights or remedies provided by law or under this contract.

ARTICLE 28**7-104.71 F.O.B. DESTINATION (1969 APR.)**

Supplies shall be delivered to the destination consignee's wharf (if destination is a port city and supplies are for export), warehouse unloading platform, or receiving dock, at the expense of the Contractor. The Government shall not be liable for any delivery, storage, demurrage, accessorial, or other charges involved prior to the actual delivery (or "constructive placement" as defined in carrier tariffs) of the supplies to the destination, unless such charges are caused by an act or order of the Government acting in its contractual capacity. If rail carrier is used, supplies will be delivered to the specified unloading platform of the consignee. If motor carrier (including "piggy-back") is used, supplies will be delivered to truck tailgate at the unloading platform of the consignee. If the Contractor uses rail carrier or freight forwarder for less than carload shipments, he shall assure that the carrier will furnish tailgate delivery if transfer to truck is required to complete delivery to consignee.

ARTICLE 29**7-104.76 F.O.B. DESTINATION—EVIDENCE OF SHIPMENT (1969 JUN.)**

If this contract is awarded on an f.o.b. destination basis and if transportation is accomplished by:

- (i) common carrier, the Contractor agrees to furnish in support of his invoice, a copy of the signed commercial bill of lading indicating the carrier's receipt of the supplies covered by the invoice for transportation to the destination specified in the contract;
- (ii) parcel post, the Contractor agrees to furnish a certificate of mailing with his invoice; and
- (iii) other than common carrier or parcel post, the Contractor agrees to attach to his invoice a receipted copy of the appropriate delivery document showing receipt at the destination specified in the contract.

ARTICLE 30

Personal Delivery: In the event any item under this contract is personally delivered to the Technical Representative of the Contracting Officer, a signed receipt in duplicate must be obtained from said representative and one copy attached to any invoice submitted for reimbursement for such item(s) or forwarded to the Contracting Officer. Failure to do so will result in suspension of payment, since the Disbursing Officer is prohibited from making payment without evidence of delivery to other than the designated consignee.

ARTICLE 31

Packing and Packaging: Packing and packaging shall be in accordance with standard commercial practice for domestic shipment, as set forth in the Uniform Freight Classification for commercial practice, to assure arrival at destination in serviceable condition. Exterior of the container(s) shall bear the item numbers and consignee address.

ARTICLE 32

Manuals for Production-Type Items: The Contractor shall furnish with each production-type item and each standard commercial type item deliverable hereunder, a manual or other data necessary for the user to satisfactorily inspect, operate and maintain the equipment.

ARTICLE 33

Shipping Instruction: If not specified in the contract, names of consignees of all supplies or equipment to be delivered by the Contractor hereunder will be furnished to the Contractor in writing by the Contracting Officer at a later date. Request therefor shall be made to the Contracting Officer not later than thirty (30) days prior to the date on which any of the articles are ready for shipment.

ARTICLE 34

Protective Signature: In the event any material or items which may be concerned hereunder are, or may later become SECRET or CONFIDENTIAL and when the size or weight of such material or items classified SECRET or CONFIDENTIAL makes shipment by registered mail impracticable, commercial shipment should be made only by the Railway Express Agency "Protective Signature Service." The material must be securely crated and banded and prior to shipment the Contractor shall advise the Contracting Officer of (1) the date the material will be shipped, (2) the approximate date of arrival, and (3) the approximate weight, size, and number of cartons. Bulk shipments of TOP SECRET material shall be made only in accordance with specific instructions which will be furnished the Contractor by the Contracting Officer upon notification that the material is ready for shipment.

ARTICLE 35**IDENTIFICATION AND MARKING OF SHIPMENTS****I. General:**

A. It is an express condition of this contract that the Contractor will make no reference of any nature to the purchaser in connection with the shipment of materials or the shipping documents pertaining to this contract. This includes, but it is not limited to the items being furnished, instruction books, blueprints, manuals, packing lists, instruction plates or identification plates. Neither shall there be any reference to the purchaser on or in any shipping container, shipping documents or billing documents.

II. Bills of Lading:

A. The Bill of Lading shall show the consignee as cited on Schedule "A" of the contract.

III. Exterior Markings:

A. No stenciling shall be applied to the shipping container except for the following:

(1) Weight, dimensions and cubic content of container

(2) Caution markings for handling purposes, such as; "DELICATE INSTRUMENT," "THIS SIDE UP," "FRAGILE," and "CENTER OF BALANCE" (on large items), etc.

B. The consignee address as given above in paragraph II A shall be marked on a shipping tag or label that shall be securely fixed on the container by use of a waterproof adhesive or stapled to the container. Such markings shall be protected by a coat of transparent water-repellant material.

C. Container Numbering

(1) Each exterior container shall bear a number relative to the total number of containers in the shipment, e.g., PKG. 1 of 5.

(2) Set marking—where an equipment item constitutes a set, and is packed and shipped unassembled in two or more separate pieces, each container shall be marked with the set or assembly number, the number of the container relative to

the number of containers comprising the complete set, and the total number of containers in the particular set or assembly, together with a brief description of the component part contained herein. Thus, a box containing a control panel which is the third container of a group of four making up set number two would require the following special set markings: Set No. 2, Package 3 of 4, Control Panel.

(3) Container numbering shall not be stenciled on the containers but shall be applied by tag or label as described in paragraph III B.

IV. Interior Markings:

A. No markings shall be applied on any interior packaging material or container that would identify the purchaser.

B. Each primary wrapper, envelope, bag, folding carton or other packaging material, enclosing each assembly, part or group of similar parts shall be marked or labeled so that it may be readily identified against the packing list. Each secondary and all other overwrap material shall be marked as to the contents enclosed in the package. The markings shall include the following:

- (1) One of the following headings:
 - a. Part of basic unit (removed to facilitate packing)
 - b. Operating Spare Parts
 - c. Base Spare Parts
 - d. Tools
 - e. Service Equipment
 - f. Other category indicated in the contract
- (2) Brief nomenclature
- (3) Quantity

Items that are not enclosed in a wrapper or carton shall be identified with a tag that includes the above information.

V. Packing Lists:

A. A master packing list shall accompany each shipment or be forwarded under separate cover so that it reaches the consignee prior to the receipt of the shipment. The master packing list shall include:

- (1) Name and address of consignor
- (2) Name and address of consignee as in paragraph II A above
- (3) Contract or Purchase order number
- (4) Government Bill of Lading Number covering the shipment if any
- (5) Items being shipped shall be listed as required under one or more of the headings listed in paragraph IV B (1) above
- (6) Stock and item number
- (7) Nomenclature of item
- (8) Quantity of each item
- (9) Location of each item by container number and set number when applicable
- (10) Any data specifically required to be included on the packing list, by the terms of the contract.

VI. Unassembled Items:

A. Identification of connection components.

When it is necessary to remove components to facilitate packing, all connecting wires, conduits, leads and other objects disconnected shall be tagged in such a manner so as to readily identify lines of the various components.

B. Shipping bolts, collars, etc.

All objects that are attached to assemblies for packing purposes that require removal before the item can be put in operation, shall be labelled accordingly in a conspicuous manner.

ARTICLE 36

DISCLOSURE OF FOREIGN INTEREST IN UNITED STATES DOMESTIC CONCERN

It shall be a condition of this contract that at any time during its effective period, the Contractor shall disclose to the Contracting Officer any interest of a control nature (financial or otherwise) in the Contractor by any foreign source whatsoever. This shall also be a condition precedent to the execution of the contract.

ARTICLE 37

7-104.22 EQUAL OPPORTUNITY PRE-AWARD CLEARANCE OF SUBCONTRACTS (1971 OCT.)

Notwithstanding the clause of this contract entitled "Subcontracts," the Contractor shall not enter into a first-tier subcontract for an estimated or actual amount of \$1,000,000 or more without obtaining in writing from the Contracting Officer a clearance that the proposed subcontractor is in compliance with equal opportunity requirements and therefore is eligible for award.

ARTICLE 38

7-104.36 Minority Business Enterprises. In accordance with 1-332, insert the following clause or clauses, as applicable, in (a) and (b).

(a) The following clause shall be included in all contracts in amounts which may exceed \$5,000 except (1) contracts which, including all subcontracts thereunder, are to be performed entirely outside the United States, its possessions, Puerto Rico and the Trust Territory of the Pacific Islands and (2) contracts for services which are personal in nature.

UTILIZATION OF MINORITY BUSINESS ENTERPRISES (1971 NOV.)

(a) It is the policy of the Government that Minority Business Enterprises shall have the maximum practicable opportunity to participate in the performance of Government contracts.

(b) The Contractor agrees to use his best efforts to carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority business enterprise" means a business, at least 50 percent of which is owned by minority group members or, in case of publicly-owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purposes of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American Eskimos, and American Aleuts. Contractors may rely on written representations by subcontractors regarding their status as minority business enterprises in lieu of an independent investigation.

(b) The following clause shall be included in all contracts (except maintenance, repair and construction contracts) which may exceed \$500,000, which require the clause in (a) above and which, in the opinion of the Contracting Officer, offer substantial subcontracting possibilities. Furthermore, Prime Contractors who are to be awarded contracts which may not exceed \$500,000 but which, in the opinion of the Contracting Officer, offer substantial subcontracting possibilities, shall be urged to accept the clause.

MINORITY BUSINESS ENTERPRISES SUBCONTRACTING PROGRAM (1971 NOV.)

(a) The Contractor agrees to establish and conduct a program which will enable minority business enterprises (as defined in the clause, entitled, "Utilization of Minority Business Enterprises") to be considered fairly as subcontractors and suppliers under this contract. In this connection, the Contractor shall:

(1) Designate a liaison officer who will administer the Contractor's "Minority Business Enterprise Program."

(2) Provide adequate and timely consideration of the potentialities of known minority business enterprises in all "make-or-buy" decisions.

(3) Assure that known minority business enterprises will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of minority business enterprises.

(4) Maintain records showing (i) procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of minority business enterprises, (ii) awards to minority business enterprises on the source list, and (iii) specific efforts to identify and award contracts to minority business enterprises.

(5) Include the "Utilization of Minority Business Enterprises" clause in subcontracts which offer substantial minority business enterprise subcontracting opportunities.

(6) Cooperate with the Contracting Officer in any studies and surveys of the Contractor's minority business enterprises procedures and practices that the Contracting Officer may from time to time conduct.

(7) Submit periodic reports of subcontracting to known minority business enterprises with respect to the records referred to in subparagraph (4) above, in such form and manner and at such time (not more often than quarterly) as the Contracting Officer may prescribe.

(b) The Contractor further agrees to insert, in any subcontract hereunder which may exceed \$500,000 provisions which shall conform substantially to the language of this clause, including this paragraph (b), and to notify the Contracting Officer of the names of such subcontractors.

ARTICLE 39

7-104.82 PAYMENT OF INTEREST ON CONTRACTORS' CLAIMS (1972 MAY)

(a) If an appeal is filed by the Contractor from a final decision of the Contracting Officer under the DISPUTES clause of this contract, denying a claim arising under the contract, simple interest on the amount of the claim finally determined owned by the Government shall be payable to the Contractor. Such interest shall be at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41; 85 STAT 97 for the Renegotiation Board from the date the Contractor furnishes to the Contracting Officer his written appeal pursuant to the DISPUTES clause of this contract, to the date of (i) a final judgment by a court of competent jurisdiction, or (ii) mailing to the Contractor of a supplemental agreement for execution either confirming completed negotiations between the parties or carrying out a decision of a Board of Contract Appeals.

(b) Notwithstanding (a) above, (i) interest shall be applied only from the date payment was due, if such date is later than the filing of appeal; and (ii) interest shall not be paid for any period of time that the Contracting Officer determines the Contractor has unduly delayed in pursuing his remedies before a Board of Contract Appeals or a court of competent jurisdiction.

ARTICLE 40

7-103.27 LISTING OF EMPLOYMENT OPENINGS FOR VETERANS (1971 NOV.)

(This clause is applicable pursuant to 41 CFR 50-250 if this contract is for \$10,000 or more and will generate 400 or more man-days of employment.)

(1) The Contractor agrees that all employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the Contractor other than the one wherein the contract is being performed by excluding those of independently operated corporate affiliates, shall, to the maximum extent feasible, be offered for listing at an appropriate local office of the State employment service system wherein the opening occurs and to provide such periodic reports to such local office regarding employment openings and hires as may be required.

(2) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source of effort and shall involve only the normal obligations which attach to the placing of a bona fide job order but does not require the hiring of any job applicant referred by the employment service system.

(3) The periodic reports required by paragraph (1) above shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than one establishment in a State, with the central office of that State employment service. Such reports shall indicate for each establishment the number of individuals who were hired during the reporting period and the number of hires who were veterans who served in the Armed Forces on or after August 5, 1964, and who received other than a dishonorable discharge. The Contractor shall maintain copies of the reports submitted until the expiration of one year after final payment under the contract, during which time they shall be made available, upon request, for examination by any authorized representatives of the Contracting Officer or of the Secretary of Labor.

(4) Whenever the Contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State wherein it has establishments of the name and location of each such establishment in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State employment service system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State systems when it is no longer bound by this contract clause.

(5) This clause does not apply (i) to the listing of employment openings which occur outside of the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands; and (ii) contracts with state and local governments.

(6) This clause does not apply to openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.

(7) As used in this clause:

(i) "All employment openings" include, but are not limited to, openings which occur in the following job categories; production and nonproduction; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings which are compensated on a salary basis of less than \$18,000 per year. This term includes full-time employment, temporary employment of more than three (3) days' duration, and part-time employment.

(ii) "Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area of the establishment where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(iii) "Openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement," means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) or outside of a special hiring arrangement which is part of the customary and traditional employment relationship which exists between the Contractor and representative of its employees and includes any openings which the Contractor proposes to fill from regularly established "recall" or "rehire" lists or from union hiring halls.

(iv) "Man-day of employment" means any day during which an employee performs more than one hour of work.

(8) The Contractor agrees to place this clause (excluding this paragraph (8), in any subcontract directly under this contract) provided, such subcontract is for \$10,000 or more and will generate 400 or more man-days of employment.

ARTICLE 41**3-1204 COST ACCOUNTING STANDARDS (1972 JUL.)**

The Cost Accounting Standards clause set forth in 7-104.83 shall be inserted in all negotiated contracts exceeding \$100,000, except when the price is based on established catalog or market prices of commercial items sold in substantial quantities to the general public or is set by law or regulation. In addition to the foregoing exceptions, the clause shall not be included in contracts awarded pursuant to:

- (i) Small Business Restricted Advertising (see 1-706.5(b) and 1-706.7(c)),
- (ii) Partial small business set-aside (see 1-706.6), or
- (iii) The authority of section 8(a) of the Small Business Act (15 U.S.C.).

In accordance with 3-1204, insert the following clause:

7-104.83 COST ACCOUNTING STANDARDS (1972 JUL.)

(a) Unless the Cost Accounting Standards Board has prescribed rules or regulations exempting the contractor or this contract from standards, rules, and regulations promulgated pursuant to 50 U.S.C. App. 2168 (Public Law 91-379, August 15, 1970), the contractor, in connection with this contract shall:

(1) By submission of a Disclosure Statement, disclose in writing his cost accounting practices as required by regulations of the Cost Accounting Standards Board. The required disclosures must be made prior to contract award unless the Contracting Officer provides a written notice to the contractor authorizing post-award submission in accordance with regulations of the Cost Accounting Standards Board. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the contractor and which contain this Cost Accounting Standards clause. If the contractor has marked the Disclosure Statement to indicate that it contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement will be protected and will not be released outside of the Government.

(2) Follow consistently the cost and accounting practices disclosed pursuant to (1) above in accumulating and reporting contract performance cost data concerning this contract. If any change in disclosed practices is made for purposes of any contract or subcontract subject to Cost Accounting Standards Board requirements, the change must be applied prospectively to this contract, and the Disclosure Statement must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with subparagraph (a)(4) or (a)(5) below, as appropriate.

(3) Comply with all Cost Accounting Standards in effect on the date of awards of this contract or if the contractor has submitted cost or pricing data, on the date of final agreement on price as shown on the contractor's signed certificate of current cost or pricing data. The contractor shall also comply with any Cost Accounting Standard which hereafter becomes applicable to a contract or subcontract of the contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

(4)(A) Agree to an equitable adjustment as provided in the changes clause of this contract if the contract cost is affected by a Disclosure Statement change which the contractor is required to make pursuant to (3) above. If the contractor has not been required to file a Disclosure Statement but is required pursuant to (a)(3) above to change an established practice, then an equitable adjustment shall similarly be agreed to.

(B) Negotiate with the Contracting Officer to determine the terms and conditions under which any Disclosure Statement change other than changes under (4)(A) above may be made. A change to a Disclosure Statement may be proposed by either the Government or the contractor, provided, however, that no agreement may be made under this provision, that will increase costs paid by the United States under this contract.

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if he or a subcontractor fails to comply

with an applicable Cost Accounting Standard or to follow any practice disclosed pursuant to subparagraphs (a)(1) and (a)(2) above and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97, or 7 percent per annum, whichever is less, from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the contractor or a subcontractor has complied with an applicable Cost Accounting Standard, rule, or regulation of the Cost Accounting Standards Board and as to any cost adjustment demanded by the United States, such failure to agree shall be a dispute concerning a question of fact within the meaning of the disputes clause of this contract.

(c) The contractor shall permit only authorized representatives of the Contracting Officer to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The contractor shall include in all negotiated subcontracts which he enters into the substance of this clause except paragraph (b), and shall require such inclusion in all other subcontracts of any tier, except that this requirement shall apply only to negotiated subcontracts in excess of \$100,000 where the price negotiated is not based on:

- (i) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or
- (ii) prices set by law or regulation.

NOTE: (1) Subcontractors shall be required to submit their Disclosure Statements to the Contractor. However, if a subcontractor has previously submitted his Disclosure Statement to a Government Administrative Contracting Officer (ACO) he may satisfy that requirement by certifying to the contractor the date of such Statement and the address of the ACO.

(2) In any case where a subcontractor determines that the Disclosure Statement information is privileged and confidential and declines to provide it to his contractor or higher tier subcontractor, the contractor may authorize direct submission of that subcontractor's Disclosure Statement to the same Government offices to which the contractor was required to make submission of his Disclosure Statement. Such authorization shall in no way relieve the contractor of liability as provided in paragraph (a)(5) of this clause. In view of the foregoing and since the contract may be subject to adjustment under this clause by reason of any failure to comply with rules, regulations, and Standards of the Cost Accounting Standards Board in connection with covered subcontracts, it is expected that the contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the contractor. However, the inclusion of such a clause and the terms thereof are matters for negotiation and agreement between the contractor and the subcontractor, provided that they do not conflict with the duties of the contractor under its contract with the Government. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification to be submitted by his subcontractors.

(c) The terms defined in Sec. 331.2 of Part 331 of Title 4, Code of Federal Regulations (4 CFR 331.2) shall have the same meanings herein. As there defined, "negotiated subcontract" means "any subcontract except a firm fixed-price subcontract made by a contractor or subcontractor after receiving offers from at least two firms not associated with each other or such contractor or subcontractor, providing (1) the solicitation to all competing firms is identical, (2) price is the only consideration in selecting the subcontractor from among the competing firms solicited, and (3) the lowest offer received in compliance with the solicitation from among those solicited is accepted."

ARTICLE 42**7-105.1 ALTERATIONS IN CONTRACT (1949 JUL.)**

The following alterations have been made in the provisions of this contract.